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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/425,736  | 10/22/1999  | YUSAKU FUJII         | 991176              | 9951             |
| 38834   | 7590        | 04/26/2006           | EXAMINER            |                  |
| WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP<br>1250 CONNECTICUT AVENUE, NW<br>SUITE 700<br>WASHINGTON, DC 20036 |             |                      | KHOSHNOODI, NADIA   |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2137                |                  |

DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|   |                  |              |  |
|---|------------------|--------------|--|
| <b>Advisory Action</b><br><b>Before the Filing of an Appeal Brief</b> | Application No.  | Applicant(s) |  |
|   | 09/425,736       | FUJII ET AL. |  |
|   | Examiner         | Art Unit     |  |
|   | Nadia Khoshnoodi | 2137         |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 03 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1, 3-22.  
Claim(s) withdrawn from consideration: 2.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants contend that Moussa et al. patent cited has no relevance to the present invention due to the reasoning that "the fingerprint in the cited reference means a hash value of a certain data" as opposed to a human fingerprint. The Examiner has reviewed the cited Moussa et al. reference and respectfully disagrees. Moussa et al. discuss in many different areas of the reference that they are in fact referring to a human fingerprint as in the present invention. For Applicants' convenience, Examiner will point Applicants' attention to the following column/line numbers which suggest that they are referring to a biometric sample when referring to a fingerprint and not a hash value. See col. 1, lines 14-20; col. 1, lines 39-46; col. 2, lines 5-8; and col. 3, lines 20-37. All of these column/line numbers show that the biometric fingerprint was the original source of information for the data block. Furthermore, Examiner would like to point out that the term "organic information" is broad and is therefore broadly interpreted according to MPEP 2111.

Applicants further contend that "McNair is completely silent with regard to discriminating authentication demand by an attacker by counting the number of said comparing-collating results which satisfy predetermined conditions and judging authentication demand as the one by an attacker if said counted number exceeds a predetermined value." Examiner respectfully disagrees. McNair allows for a "try again" threshold to reconsider that the user may be valid in the instance where the user's data was very close to the valid authentication range. However, McNair teaches that if the desired threshold is not reached, i.e. authentication attempt was by an invalid user, access is denied after the first invalid attempt that does not reach the predetermined threshold (col. 14, lines 41-44 and lines 64-67). Thus McNair teaches the limitation of discriminating authentication demand by an attacker by counting the number of said comparing-collating results which satisfy predetermined conditions, i.e. if there is 1 invalid attempt that satisfies the condition that yields the results of assuming an attacker is attempting to gain access, and judging authentication demand as the one by an attacker if said counted number exceeds a predetermined value, i.e. more than 0 incorrect attempts that do not reach the "try again" threshold suggests that the attacker is trying to gain access.

Therefore, Moussa et al. and McNair teach the claimed limitations Applicants allege are patentably distinct over the prior arts of record. Furthermore, Gressel et al. teach the limitations that are not explicitly disclosed by the above cited references. Thus, it is the Examiner's conclusion that the claims, as presented, are not patentably distinct from the prior art of record.

*Nadia Khoshnoodi*  
4/19/2006

  
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